

**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**

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## Enforcement Action

**David DeMent****Professional Geologist No. 5874****Registered Environmental Assessor II**

The Board for Geologists and Geophysicists (Board) issued a Citation and Fine of \$2,500.00 to David DeMent (Professional Geologist license No. 5874) for violation of Business and Professions Code section 7872(h) and section 7860(a)(b) and for violation of sections 3065(a)(b)(4)(6) and (8) of the California Code of Regulations (expression of opinions shall have a basis in fact or experience and shall not misrepresent data and its relative significance in any geologic report).

Mr. DeMent prepared site characterization reports relating to a site known as the "Metropolitan Apartments Site" in San Mateo, California and entitled "Subsurface Investigation Report", dated May 24, 2001, "Subsurface Investigation Report", dated September 24, 2001, "Soil Characterization Report", dated March 12, 2002, and "Clarification Letter", dated May 8, 2003, signed/certified as David DeMent RG or RG, REA II and subsequently submitted to the San Mateo County Public Health and Environmental Protection Division (Agency) to satisfy the requirements of the Agency published Groundwater Protection Program (GPP).

The above-referenced reports submitted by Mr. DeMent provided various professional environmental services including, subsurface characterization of the extent of contamination in site soils from site drilling operations without proper notification of the drilling operations to the Agency, asserted that the extent of possible soil contamination was localized without supporting soil test datum, and transported contaminated soil off-site for unconditional reuse as artificial fill material. Mr. Dement also claimed in his reporting that local groundwater was under confining conditions but then states that soil in the "capillary fringe" and "in contact with groundwater do not indicate impact from petroleum hydrocarbons volatile organic compounds (VOCs)" in his September 24, 2001 report. By definition, the term "capillary fringe" applies to water table conditions where groundwater is overlain by unsaturated, permeable material. Therefore, Mr. DeMent mischaracterized the site geologic conditions.

Business and Professions Code section 7872(h) and section 7860 and Title 16 CCR of section 3065(a)(b)(4)(6)(8) makes it a ground for disciplinary action for any licensee to fail to act with competence and reasonable care in applying the technical knowledge and skill which is ordinarily applied by licensees of good standing and under similar circumstances practicing in this state. In the circumstances of this case, a reasonable Professional Geologist would understand and follow the minimum notification and submittal requirements prepared under professionally licensed certification by the local Agency<sup>1</sup>.

In accordance with section 125.9(d) of the Business and Professions Code which specifies that payment of the fine does not constitute admission of the violation charged and represents satisfactory resolution of the matter, David DeMent agreed to pay the fine and the case was closed on July 27, 2005.

<sup>1</sup> The standard of practice of licensed Professional Geologist (PG) conducting site evaluations under similar circumstances, requires that the PG complete a competent analysis in accordance with GPP requirements for such reporting which specify notification requirements and procedures for environmental site characterization and evaluation. Mr. DeMent's apparent failures to clearly and accurately present the potential contamination in subsurface geologic materials and give appropriate notice to the Agency departs from the standard of practice of a Professional geologist and therefore constitutes professional negligence and/or incompetence. Further, Title 16 CCR sections 3065(a)(b)(4)(6) and (8) require that a licensee shall only express opinions that have a basis in fact or experience, not allow data publication for unlawful purposes, and shall not misrepresent data and its relative significance in any geologic report.